

**Catawba County - Fire, Animal Control**

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**CHAPTER 343: ANIMALS (DOMESTIC)**

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### *Statutory References*

This chapter is established pursuant to the following grants of statutory authority:

NCGS §153A-121 which delegates to counties the power to regulate by ordinance, acts omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county.

NCGS §153A-123, which authorizes counties to levy fines and penalties for violation of its ordinances and allows counties to secure injunctions and abatement orders to further ensure compliance with its ordinances.

NCGS §153A-127 which authorizes counties to define and prohibit the abuse of animals.

NCGS §153A-131 which authorizes counties to regulate, restrict or prohibit the possession or harboring of animals which are dangerous to persons or property.

NCGS §153A-442 which authorizes counties to establish, equip, operate and maintain animal shelters.

NCGS §153A-153, which authorizes counties to levy an annual license, tax on the privilege of keeping dogs and other pets within the county.

NCGS §130A-192, which authorizes animal control directors to determine if there are any dogs and cats not wearing valid rabies vaccination tags.

NCGS §67-4.1, which authorizes the animal control director to declare a dog dangerous or potentially dangerous.

NCGS §14-4, which makes it a Class 3 misdemeanor. Unless otherwise specified, if any person shall be found guilty of violating an ordinance of the county.

NCGS §19A-45 which authorizes counties to appoint one or more animal cruelty investigators.

NCGS §130A-186, which authorizes the local health director to appoint one or more certified rabies vaccinators.

## ***ARTICLE I: GENERAL PROVISIONS***

### **§343.01 PURPOSE AND OBJECTIVE**

This chapter is established for the following purposes and objectives:

- (A) Animal cruelty: To define and prohibit the abuse of animals.
- (B) Rabies: To protect citizens and other animals of the county from rabies transmitted by unconfined, uncontrolled or unimmunized dogs, cats or other animals.
- (C) Animal nuisance: To regulate animals that may be a nuisance.
- (D) Wild or exotic animals, poisonous reptiles and dangerous animals: To regulate, restrict or prohibit the

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harboring or keeping or ownership of wild or exotic animals, poisonous reptiles and dangerous animals.

- (E) Animal bites: To establish rules and procedures for dealing with animal bites.
- (F) Impoundment of animals: To regulate and establish procedures for the impoundment and confinement of animals.
- (G) Redemption of impounded animals: To regulate and establish procedures for redeeming animals impounded in the County's animal shelter.
- (H) Destruction of animals: To regulate and establish procedures for destroying diseased, stray, unwanted or unclaimed animals.

### **§343.02 DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the content clearly indicates or requires a different meaning:

**ABANDON.** To intentionally, knowingly, recklessly or negligently leave an animal at a location for more than 48 consecutive hours without providing for the animal's continued care.

**ADEQUATE SHELTER.** An enclosure of at least three solid sides, a roof and a floor, that is ventilated and has sufficient room for an animal to move about freely and lie down comfortably.

**ANIMAL.** Every nonhuman species that has been domesticated by man.

**AT-LARGE.** Any animal found off the property of its owner and not under restraint, or any animal that has been the subject of a previous at-large complaint when found unrestrained whether on or off of the property of its owner, or any animal previously determined to be dangerous that is not confined to a secure enclosure while on the property of its owner.

**BITE.** The act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

**CATS.** Any and all domestic felines.

**COUNTY.** The County of Catawba, North Carolina

**CONFINEMENT.** Impoundment within the County's animal shelter or other appropriate facility.

**CRUELTY AND CRUEL TREATMENT.** Every act, omission, or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully.

**DANGEROUS DOG.** A dog which does one or more of the following:

- (1) without provocation inflicts a bite upon a person; or
- (2) Kills or inflicts severe injury upon a domestic animal when not on the real property of the owner of the dog;  
or
- (3) Approaches a person, when not on the owner's property, in a vicious or terrorizing manner in an apparent attitude of attack.

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- (4) is owned or harbored primarily or in part of the purpose of dog fighting, or a dog trained for dog fighting, in violation of NCGS 14-362.1.

**DOGS.** Any and all domestic canines.

**DOMESTIC ANIMAL.** Any animal domesticated by man for his use, i.e., horse, dog, cat.

**EXOTIC ANIMAL** means any living animal as set forth in Chapter 345: Inherently Dangerous Exotic Animals.

**EXPOSED TO RABIES.** Any person or animal that has bitten, been bitten by, or otherwise come into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.

**FERAL CAT.** A domestic cat which has adapted to survive in the wild, is homeless and ownerless, and having descended from stray and possible generations of abandoned house pets.

**FLOOD-PRONE AREA.** An area in which two or more inches of standing water is likely to accumulate during a period of normal rainfall.

**HABITUAL VIOLATION/HABITUAL VIOLATOR.** An animal, owner or any other person that has been cited for violating this chapter on three (3) or more occasions in the past three (3) years and the most recent violation was within the past twelve (12) months.

**IMPOUNDMENT.** Possession or seizure of an animal by the county animal control division for placement in the County's animal shelter or other appropriate facility.

**IN ESTRUS.** A female animal in the erotic stage of copulation.

**LOST, STRAY OR UNWANTED.** Any animal found within the County wandering at-large which does not have an owner and does not bear evidence of identification of any owner, or any animal whose owner, if determinable, has failed to attach a valid rabies tag for the animal.

**NIGHTTIME.** The time from sunset until sunrise.

**NUISANCE.** Any act of an animal or its owner which annoys or disturbs rights and privileges common to the public or enjoyment of private property. The commission on more than one occasion of the following acts shall be evidence of a nuisance:

- (1) Turns over garbage containers or removes garbage from them
- (2) Damages gardens, foliage or other real or personal property.
- (3) Is maintained in an unsanitary condition so as to be offensive to sight or smell.
- (4) Is not confined to a building or secure enclosure while in estrus.
- (5) Chases, snaps at, attacks, or otherwise molests pedestrians, bicyclists, motor vehicle passengers, farm stock or domestic animals.
- (6) Is a dangerous animal as determined by the Animal Control Officer.
- (7) Is diseased or dangerous to the health of the public.
- (8) Is housed or restrained less than 15 feet from a public street, road or sidewalk and, in the discretion of the animal control officer, poses a threat to the general safety, health and welfare of the general public.

**OWNER** means any person, group of persons, firm, partnership or corporation owning, keeping, having charge of or taking care of an animal or allowing an animal to remain on its property for more than five (5) working days.

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**OWNER'S PROPERTY** means that area described in a deed of conveyance or the area described in a lease. In a situation involving town homes or condominiums, animal control will treat the common areas as being owned by the homeowner's association. In a situation involving leased apartments, animal control will treat the common areas as being owned by the lessor/property owner. A motor vehicle is not a part of the owner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle that is physically located in or on the common areas of town homes, condominiums or leased apartments, or other public areas shall be treated as being off of the owner's property.

**PERSON** means any human being, firm, partnership or corporation, including any nonprofit corporation.

**POISONOUS REPTILE** means any animal that crawls or moves on its belly as a snake or on small short legs as a lizard and has the capability of injecting humans or animals with venom which may cause death or physical injury.

**PRIOR COMPLAINTS** means any prior oral or written complaint to animal control about a specific animal, or any oral or written complaint about any animals of a specific owner being in violation of any provision of this chapter.

**RABIES VACCINATOR** means a person appointed and certified to administer rabies vaccine or a licensed veterinarian.

**RESTRAINT** means a secure enclosure located on the owner's property, or a chain, leash or other physical or electronic device of sufficient strength, which allows the owner to maintain control of an animal. Voice command is not recognized as adequate restraint.

**SECURE ENCLOSURE** means an enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. A motor vehicle shall not constitute a secure enclosure. Minimum space and height requirements and other specifications for secure enclosures shall be obtained from the Chief Animal Control Officer based on the breed, age, height and weight of the animal.

**VACCINATION** means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

**VICIOUS DOG.** A dog that, without provocation and while not on the owner's property, has killed or inflicted serious injury upon a human being such that professional medical treatment was required.

**WILD ANIMAL** means any animal that is not normally domesticated. A hybrid of any animal, regardless of genetic percentages, shall be deemed a wild animal.

**WORKING DAYS** means any day of the week excluding Saturday, Sunday and legal holidays. If the last day of the time period specified herein shall fall on a legal holiday, then the action required shall be undertaken on the next day that is not a Saturday, Sunday or legal holiday.

### **§343.03 HEALTH DIRECTOR**

The Public Health Director shall have the authority to declare areas under quarantine against rabies when the lives of persons are endangered and to do any other act required or authorized by this chapter and the laws of this state.

### **§343.04 ANIMAL CONTROL DIVISION**

Authority is hereby granted to the animal control division to enforce this chapter. This chapter shall be enforced by all nonsworn animal control officers (as defined in §343.06), having all rights, powers and immunities granted in this section,

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as well as by sworn animal control officers (as defined in §343.06) utilizing the additional rights, powers and immunities granted to sworn officers under §343.06. All employees of the animal control division are hereby granted the following rights, powers and immunities, and such employees, through the animal control division, shall:

- (A) Have the responsibility, along with law enforcement agencies, to enforce all laws of the state and all ordinances of the county pertaining to animals and shall cooperate with all law enforcement officers within the county in fulfilling this duty.
- (B) Enforce and carry out all laws of the state and all ordinances of the county pertaining to rabies control.
- (C) Be responsible for investigation of all reported animal bites, for the quarantine and confinement of any dog, cat or ferret known to have, or suspected of having rabies, for a period of not less than ten (10) days, and for reporting to the local health director as soon as practicable the occurrence of any such animal bite and the condition of the quarantined animal.
- (D) Be responsible for the seizure and impoundment, when necessary, of any animal in the county involved in a violation of this chapter or any other ordinance or state law.
- (E) Investigate cruelty or abuse of animals and protect animals within the county from cruelty and abuse.
- (F) Be empowered to seize animals, pursuant to the provisions of this chapter or NCGS §19A-46, or with the consent of an owner or occupant of the property, or as evidence if the animals are in plain view, or by criminal or administrative warrant if the animals are being cruelly treated or abused, or by order of a court of competent jurisdiction of this state.
- (G) Make legal canvasses of property within the county as necessary for the purpose of ascertaining compliance with this chapter or state statute.
- (H) Maintain accurate and detailed records of seizures, impoundments, dangerous animals, disposition of animals coming into the custody of the animal control division, bite cases, violations, complaints, investigations and monies collected.
- (I) Be empowered to issue notices of violation, assess civil penalties for violations of this chapter and issue citations when authorized by law.
- (J) Be empowered to go upon private property and into the yard of animal owners to inspect the condition of animals.
- (K) Be empowered to make inspections of buildings or dwellings either with the consent of the owner or occupant, or pursuant to a warrant.
- (L) Be empowered to go upon private property to seize animals pursuant to the provisions of this chapter or an order of a court of competent jurisdiction of this state.

### **§343.05 CHIEF ANIMAL CONTROL OFFICER**

The chief animal control officer shall control, direct and supervise the animal control division, its employees and officers. The chief animal control officer shall monitor the County animal control shelter. The Chief Animal Control Officer is hereby designated by the Board of Commissioners as the person responsible for determining when a dog is dangerous pursuant to NCGS §67-4.1(c). The Chief Animal Control Officer is hereby authorized to initiate legal action to enforce this chapter. The Chief Animal Control Officer shall have the authority to delegate to the animal control officers or administrative staff any of the powers granted to the Chief Animal Control Officer by this chapter. Any act done by an animal control officer or a member of the administrative staff that is in compliance with or within the scope of this chapter, shall be considered the

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official act of the Chief Animal Control Officer.

### **§343.06 ANIMAL CONTROL OFFICERS**

All persons employed by the animal control division to enforce the animal control ordinance shall be considered animal control officers and shall have the rights, powers and immunities granted under this chapter and by the laws of this state to enforce the provisions of this chapter and the General Statutes of North Carolina as they relate to animal control and animal welfare. All animal control officers are hereby appointed animal cruelty investigators. Animal control officers shall be classified as non-sworn or sworn as set forth below and shall have all the rights, powers and immunities conferred by this chapter:

- (A) Non-sworn animal control officers are those animal control division employees who have not taken or successfully completed the law enforcement education and training course as prescribed by the North Carolina Criminal Justice Education and Training Standards Commission, pursuant to NCGS §17C-8. Non-sworn animal control officers are not authorized to carry on their person any firearms, but are authorized to store at the animal control administrative offices, or carry in departmental vehicles, firearms approved for use when necessary to enforce the provisions of this chapter or other applicable law for the control of wild, vicious, dangerous or diseased animals. Non-sworn animal control officers are authorized to store drugs, chemicals and equipment at the animal control administrative offices as necessary to enforce the provisions of this chapter or other applicable law for the control of wild, vicious, dangerous or diseased animals. Non-sworn animal control officers shall not have the power of arrest, but shall have all rights; powers and immunities as described in §343.04.
- (B) Sworn animal control officers are those animal control division employees who have taken and have successfully completed the law enforcement education and training course as prescribed by the North Carolina Criminal Justice Education and Training Standards Commission, pursuant to NCGS §17C-8. These officers must have also taken the prescribed law enforcement personnel oath of office. All sworn animal control officers are hereby vested with the same rights, powers and immunities granted to non-sworn officers and, in addition, they are granted the same rights, powers and immunities of all law enforcement officers of this state. Included in such rights and powers is the authority to obtain and serve warrants and summons, the authority to issue citations and the authority to make arrests. All sworn animal control officers are hereby authorized to carry firearms on their person and within any departmental vehicles for use when necessary to enforce sections of this chapter or other applicable laws for the control of wild, vicious, dangerous or diseased animals and the enforcement of state law.

### **§343.07 ENFORCEMENT**

The Chief Animal Control Officer or any other person duly authorized to commence legal action on behalf of the County may take necessary legal steps to enforce this chapter and collect any amount for outstanding costs, fees or penalties assessed pursuant to this chapter. This chapter shall be enforced by imposing the specific sanctions, penalties, fines and remedies described herein, by seeking injunctive relief, orders of abatement, orders of custody and any other means prescribed by statute or common law. Any violation of this chapter, which does not carry a specific sanction, penalty or fine, shall be punishable as a general criminal misdemeanor as defined by state law.

### **§343.08 INTERFERENCE WITH OFFICERS**

It shall be unlawful for any person to interfere with, hinder or molest an employee of the animal control division or any other persons duly authorized by this chapter while in the performance of duty as set out in NCGS §19A-48. It shall also be unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the animal control division, except as otherwise specifically provided in this chapter.

### **§343.09 RABIES CONTROL**

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- (A) Every owner shall comply with the requirements of NCGS §130A-184 et seq., and any other applicable state or local laws concerning rabies control.
- (B) If an owner of an animal fails to produce proof of rabies vaccination or fails to have the animal vaccinated, after having been issued a Notice To Vaccinate pursuant to NCGS § 130A-192, animal control may seize and impound the animal. The animal may be redeemed upon showing proof of vaccination and payment of all fees and penalties authorized by this chapter.
- (C) Nothing in this article shall be construed to preclude any criminal remedy available under the laws of the State of North Carolina or the United States, or the pursuit by any person, of civil remedies available under said laws.

### **§343.10 BITES**

- (A) Every owner of an animal that has bitten a human being or any person bitten by an animal shall comply with the reporting requirements of NCGS 130A-196 or NCGS §130A-198 and other applicable state laws concerning animal bites.
- (B) An animal that is confined to the animal shelter pursuant to the provisions of NCGS §130A-196 or NCGS §130A-198 shall become the property of the county if the owner does not redeem the animal within 24 hours following the last day of the ten-day confinement period required by statute.
- (C) Upon seizing an animal pursuant to NCGS §130A-196, Animal Control shall leave with the owner or affix to the owner's residence, a notice containing the beginning and ending dates of confinement and stating that the owner must redeem the animal within 24 hours of the ending date of confinement stated in the notice.
- (D) The owner of an animal confined at the animal shelter pursuant to this section shall be responsible for the costs of caring for the animal while at the shelter and all fees shall be paid at the time of redemption. Animal Control is authorized to initiate legal proceedings to recover the costs of caring for an animal confined at the shelter pursuant to this section, if the animal is not redeemed.

### **§ 343.11 DISPOSITION OF IMPOUNDED ANIMALS**

- (A) Immediately upon impounding an animal, an Animal Control Officer shall make a reasonable effort to notify the owner and inform such owner of the conditions whereby the animal may be redeemed.
- (B) The owner of any impounded animal shall have a period of five working days for redemption.
- (C) An owner shall pay all required administrative fees, in accordance with the Catawba County Fee Schedule, prior to redeeming an impounded animal:
- (D) If an animal is not redeemed by the owner within five working days, it may be offered for sale or for adoption or be destroyed in a humane manner. Any animal not redeemed or adopted within nine days after being taken into custody shall be destroyed in a humane manner by the Animal Shelter.
- (E) Any animal impounded which is badly wounded or diseased and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, an Animal Control Officer shall attempt to notify the owner before disposing of such animal; but if the owner cannot be reached readily, and the animal is suffering, the Animal Control Officer may destroy the animal in his discretion in a humane manner.
- (F) If an animal is officially surrendered by the owner to the Animal Control Officer to be placed in a home or



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destroyed in a humane manner, it may be disposed of without waiting five working days.  
(‘77 Code, § 4-6) (Ord. passed 11-21-78); Am. Ord. passed 6-20-88; Am. Ord. passed 4-6-92; Am. Ord. passed 8-2-93)

### **§ 343.12 SALE OF IMPOUNDED ANIMALS**

Fees shall be charged by the county for the sale of impounded animals. These fees may change from time to time, but will be set forth in the fee schedule of the county, which is kept on file in the office of the Budget Manager and the County Animal Shelter.

- (A) (1) Dog and cat adoptions shall be in accordance with the Catawba County Animal Adoption and Care Contract.
- (2) Medical fees will not be charged for animals already having the required treatment.
- (B) Sale of euthanized cats for research purposes (fee will fluctuate due to market). (8-2-99)  
(‘77 Code, § 4-28 (Ord. passed 9-2-80; Am. Ord. passed 6-22-82; Am. Ord. passed 11-1-82; Am. Ord. passed 3-21-88; Am. Ord. passed 6-20-88; Am. Ord. passed 6-24-91; Ord. Amended 8-2-99)

### **§343.13 SANCTIONS AND PENALTIES**

- (A) Criminal Penalties. Any person who violates any provision of this chapter is guilty of a Class 3 misdemeanor as defined by NC Law at the time of the offense, unless otherwise provided by law.
- (B) Civil Penalties. Animal Control is authorized to assess civil penalties in the following manner:
  - (1) A civil penalty of \$25.00 shall be assessed for the first violation of any provision of this chapter.
  - (2) A civil penalty of \$50.00 shall be assessed for each second or subsequent violation of this chapter.
  - (3) A civil penalty of \$100.00 shall be assessed for violation of any provision of this chapter relating to a dog that has been declared dangerous.
  - (4) A civil penalty of \$150.00 may be assessed for habitual violation of any provision of this chapter.

A civil penalty is due and owing upon assessment. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being surrendered or as a result of the animal being impounded. If payment of a civil penalty is not received within five (5) working days of issuance, Animal Control may initiate legal proceedings to recover the amount of the penalty.
- (C) Seizure/Impoundment. In addition to criminal or civil penalties, animal control is authorized to seize or impound an animal for violation of specific provisions of this Chapter as set forth herein. Animal Control Officers are authorized to go on or about private property to seize an animal. If an animal is seized, the Animal Control Officer shall issue a written Notice of Seizure and leave it with the owner or affix it to the premises from which the animal was seized.

### **§343.14 METHOD OF SERVICE AND RETURN OF NOTICES, CITATIONS.**

Unless otherwise specified in this chapter, all notices or citations shall be served, and return of service made, pursuant to the laws of the State.

### **§343.15 APPEAL PROCEDURES**

- (A) Any person, owner, or possessor affected by any ruling or action taken by the Chief Animal Control Officer with regards to any of the following may request a review of such action by filing a request for an appeal with the Office

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of Emergency Services, P.O. Box 389, Newton NC 28658.

- (1) Seizing an animal pursuant to Article II of this Chapter, unless said seizure was authorized by a judicial official.
- (2) Declaring a dog or other animal dangerous pursuant to Article V of this Chapter or NCGS §67-4.1(c).
- (3) Issuing a notice of intent to destroy.
- (4) Denying or revoking a "Request for Animal Trap."
- (5) Declaring any dog vicious pursuant to Article V of this Chapter.

Except that there shall be no right of appeal and no appeal shall be heard where the person requesting the appeal admits the violation and/or does not dispute the facts of the incident and the sanction imposed for said violation is mandated by state law.

- (B) Unless otherwise provided by law, a request for appeal must be made in writing and mailed to the Office of Emergency Services within five (5) days of the action or decision complained of and must state the grounds for the appeal. An appeal hearing shall be scheduled by the Animal Control Appeal Board within ten (10) working days of receipt of the request for appeal, unless otherwise provided by law.
- (C) All persons requesting an appeal pursuant to this chapter shall post with Animal Control an appeal bond of ten percent (10%) of the amount owed for redemption and boarding fees and civil penalties arising out of the conduct which is the subject of the appeal. However, in no event shall the appeal bond required pursuant to this section be less than \$25.00 nor more than \$250.00.
  - (1) The appeal bond shall be waived for any citizen determined to be indigent after filing an affidavit of indigence. The affidavit must state that the citizen is without funds to post an appeal bond in the amount required by the ordinance.
  - (2) The Animal Control Appeal Board shall hold the appeal bond pending determination of the appeal. The appeal bond shall be fully refunded to the citizen if the Animal Control Appeal Board overturns the action or decision complained of. If the Animal Control Appeal Board upholds or affirms the action or decision of the animal control division, the appeal bond shall be paid to the animal shelter toward boarding and redemption fees for the subject animal. If no redemption or boarding fees are owed, the appeal bond shall be paid to the animal control division.
  - (3) The owner remains responsible for any outstanding boarding and redemption fees or civil penalties that are not satisfied by the appeal bond.
- (D) All testimony offered at an appeal hearing held pursuant to this Chapter shall be given under oath. The hearing shall be open to the public.
- (E) The Chief Animal Control Officer shall have the burden of proving that this Chapter has been violated and that the sanction is in compliance with this Chapter. The person requesting the appeal will be given an opportunity to prove that this Chapter has not been violated and/or that the sanction is not in compliance with this Chapter. The Chief Animal Control Officer will be given a final opportunity to clarify any conflicts, ambiguities or inconsistencies created by or arising from the statements or evidence. The Animal Control Appeal Board may ask questions at any time during the appeal hearing and may request additional evidence from either party.
- (F) The Animal Control Appeal Board shall render a decision at the conclusion of the hearing. The decision shall be delivered to the person requesting the appeal via first class mail.
- (G) If the decision is against the person requesting the appeal, the Chief Animal Control Officer shall implement the sanction(s) approved by the Animal Control Appeal Board. The person requesting the appeal may appeal the

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decision of the Animal Control Appeal Board to the county superior court by filing a Notice of Appeal and Petition for Judicial Review within ten (10) days of the written decision. Any sanctions or penalties imposed shall be enforceable during the pendency of any appeal.

- (H) If the decision is against the Chief Animal Control Officer, Animal Control shall immediately cease efforts to implement the sanction(s). Any decision rendered by the Animal Control Appeal Board applies only to the violation(s) and sanction(s) appealed and does not prevent the animal control division from enforcing a subsequent violation of the same provision or any other provision of this Chapter.

**§343.16 - §343.20      Reserved**

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### *ARTICLE II: ANIMAL CRUELTY*

#### **§343.21 GENERAL CARE; PROHIBITED ACTS**

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

- (A) Failures to provide adequate food water and shelter.
  - (1) All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.
  - (2) All animals shall have access to a constant supply of clean, fresh water.
  - (3) All animals shall be provided with adequate shelter from the weather at all times. It shall be within the discretion of animal control officers to determine what constitutes adequate shelter. Examples of inadequate shelter include, but are not limited to the following:
    - (a) Underneath outside steps, decks and stoops.
    - (b) Underneath houses.
    - (c) Inside or underneath motor vehicles.
    - (d) Inside metal or plastic barrels.
    - (e) Inside cardboard boxes.
    - (f) Inside temporary animal carriers or crates.
    - (g) Shelters located in flood-prone areas
    - (h) Shelters surrounded by debris, obstructions or impediments that may endanger an animal
- (B) Failure or refusal of any person in contact with or having knowledge of a sick, diseased or injured animal to provide proper medical treatment for the animal or notify the Animal Control Division of the condition. A sick animal shall go no longer than twenty-four (24) hours without veterinary care.
- (C) Animal cruelty. Examples of cruel treatment include, but are not limited to the following:
  - (1) Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck.
  - (2) Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.
  - (3) Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter.
  - (4) Intentionally allowing animals to engage in a fight.
  - (5) Allowing animals to live in unsanitary conditions.
  - (6) Allowing animals to live in crowded conditions.
  - (7) Failure or refusal to obtain medical treatment for an animal when in an animal control officer or animal cruelty investigator's opinion such treatment is needed.
  - (8) Shooting a dog, either on or off of the owner's property, unless the dog is in the act of chasing or attacking a human being, sheep, cattle, horse, hog, goat, poultry or any other domestic animal.
  - (9) Trapping a dog or cat without a "Request for Animal Trap" issued by animal control.
  - (10) Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. The animal control division shall have the authority to inspect and to close down public exhibits of animals which are part of fairs, carnivals, festivals, fund raising events, petting zoos and any other activity or function carried out in the county if it is determined that animals are being cruelly treated or run the risk of causing injury to the public or themselves.

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- (D) Chaining or tethering an animal to a stationary object for a period of time or under conditions that an animal control officer or animal cruelty investigator deems harmful or potentially harmful to the animal. Examples of improper chaining or tethering include, but are not limited to the following:
- (1) Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the animal. Guidelines for the proper weight and length of chains or tethers can be obtained from the animal shelter or animal control.
  - (2) Using a chain or tether made of rope, twine, cord or similar material.
  - (3) Using a chain or tether that is less than 10 feet in length and/or does not have swivels on both ends. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar of not less than 1 inch in width.
  - (4) Using a chain or tether that exceeds ten-percent (10%) of the animal's body weight.
  - (5) Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.
  - (6) Using a chain as a primary collar. All collars used for the purpose of chaining or tethering an animal must be made of nylon or leather.
- (E) Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer or animal cruelty investigator deems harmful or potentially harmful to the animal.

### **§343.22 SANCTIONS, PENALTIES, FINES, AND REMEDIES**

Any person who fails, refuses or otherwise violates this article shall be subject to the following sanctions or penalties:

- (A) Pursuant to NCGS §19A-46, animal control may obtain a magistrate's order to take possession of the animal.
- (B) If the conditions pose an immediate threat to the health or safety of the animal or the public, animal control may summarily seize the animal.
- (1) A notice of seizure describing the exigent circumstances warranting the seizure shall be left with the owner or affixed to the premises. Examples of circumstances include, but are not limited to the following:
    - (a) Unsanitary conditions resulting from the number of animals involved.
    - (b) Unsanitary conditions resulting from the owner's inability or unwillingness to clean the area where the animals are housed.
  - (2) The owner of an animal seized pursuant to this section may appeal the seizure by filing a request for appeal with the Office of Emergency Services as set forth in §343.15.
  - (3) If the owner fails to redeem the animal within the time limit provided by this chapter, or fails to timely request an appeal, or fails to timely appeal the Animal Control Appeal Board's decision, the animal shall become the property of the county.
- (C) If it is determined by the animal control officer that the animal is not in immediate danger, or the problem which gives rise to the inadequate or cruel treatment can be corrected within 72 hours, the office may, in lieu of §343.22 (A) or §343.22 (B) above issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer may take action as outlined in §343.22 (A) or §343.22 (B) above.

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- (D) Notwithstanding the other provisions and sanctions of this article, the animal control division may issue a civil penalty for violation of any provision of this section in accordance with §343.13.
- (E) Violation of state law. When it has been determined by the animal control officer that there has been a violation of one or more provisions of state law regarding cruelty to animals, including NCGS §14-360, the officer may initiate a criminal summons or warrant.
- (F) Failure to report. Failure to report any event for which a report is required under this article shall be subject to a civil penalty as indicated in §343.13.

### **§343.23 EXEMPTIONS**

This article shall not apply to agencies conducting biomedical research or training, the production of livestock or poultry for sale as a consumer product and the lawful destruction of any animal for the purpose of protecting livestock, poultry or humans.

**§343.24 - §343.30      Reserved**

## ***ARTICLE III: ANIMAL NUISANCE***

### **§343.31 ANIMAL CREATING A NUISANCE**

It shall be unlawful for any animal to engage in any of the acts listed in §343.02, Definitions, *Nuisance*. Upon receipt of a written, detailed and signed complaint, an animal control officer shall investigate to determine whether a violation of this article has occurred and the officer shall make a written report of the findings of the investigation.

### **§343.32 ANIMAL HOUSED OR RESTRAINED LESS THAN 15 FEET FROM PUBLIC WAY.**

(A) In addition to any penalties prescribed by §343.13 above, when it has been determined that an animal housed or restrained less than 15 feet from a public street, road or sidewalk constitutes a nuisance, but the animal is not in the street, road, or on the sidewalk, the animal control officer shall issue a notice to the owner directing the owner to move the animal. If the animal is found in the public street, road or sidewalk and the owner is not at home, or refuses to remove the animal from the street, road or sidewalk, the animal shall be seized and impounded.

(B) When an animal has been impounded three (3) times or the owner has been cited three (3) times for housing the animal less than 15 feet from the public street, road or sidewalk, the Chief Animal Control Officer shall seize and impound the animal and may initiate a civil action in district court to gain permanent custody of the animal. The owner may also be subject to penalties for habitual violation of this chapter as provided in §343.13.

### **§343.33 INTENTIONALLY OR WILLFULLY CAUSING ANIMAL TO VIOLATE ARTICLE**

It shall be unlawful for any person to intentionally or willfully cause an animal to be a public nuisance. The animal control officer may initiate the issuance of a criminal summons for violation of this section.

### **§343.34 SANCTIONS, FINES, PENALTIES, AND REMEDIES**

(A) Upon determining that a violation of this article has occurred, the animal control officer shall issue a written Declaration of Nuisance to the owner of the animal along with a civil penalty in accordance with §343.13 of this chapter. If the nuisance for which the Declaration of Nuisance is issued is a condition which is offensive to sight or smell, the owner

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shall have 72 hours within which to abate the condition before a first civil penalty is issued.

(B) Subsequent violations of this article shall subject the owner of the animal to civil penalties in accordance with §343.11 or criminal penalties as provided by law.

(C) Any animal found off of the property of its owner after having been declared a nuisance, or any animal creating a nuisance for whom an owner is unknown and cannot be determined may be seized and impounded. A notice of impoundment shall be served upon the owner or affixed to the owner's premises.

- (1) The animal may be redeemed pursuant to the provisions of Articles I and V of this chapter.
- (2) If the animal is not redeemed within five working days it shall automatically become property of the County.

(D) Nothing in this article shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss or injury to the private citizen or his property resulting from the animal being a public nuisance.

**§343.35 - §343.40      Reserved**

### ***ARTICLE IV: STRAY OR ABANDONED ANIMALS***

#### **§343.41 ABANDONED ANIMALS**

(A) It shall be unlawful for any person, owner or possessor to abandon an animal for any reason. Animal control shall seize any abandoned animal, including any animal abandoned by reason of a set out, eviction or abandonment of real property as defined by NCGS 14-361.1 at the time of offense.

(B) Notice of seizure shall be posted on the premises from which the animal was seized and in the case of a set out or eviction shall be sent to the last known address of the owner or possessor of the animal. It is the owner's responsibility to make a visual inspection of the animal shelter if he has reason to believe that his animal has been impounded at the shelter.

(C) If an abandoned animal is not redeemed within ten (10) working days of the date of impoundment, the animal shall become the property of the county.

#### **§343.42 NOTIFICATION OF ANIMAL CONTROL DIVISION**

(A) Any person who has knowledge of or keeps, feeds, harbors or possesses a stray or abandoned animal must notify the animal shelter within 24 hours of having knowledge of the animal or the animal coming into his possession or control.

(B) Any person required to notify the animal shelter under §343.42 (A) shall also be required to complete a lost/found report providing the following information:

- (1) The name, address and telephone number of the person completing the lost/found report.
- (2) A description of the type of animal, including its color, size and any other identifying information
- (3) The location where the animal was discovered.

(C) All stray or abandoned animals must be held at the shelter prior to adoption or placement. Any person who gives away, sells or allows an otherwise strayed or abandoned animal to be adopted without first surrendering said animal to the animal shelter shall have no authority over the animal and ownership shall remain with the previous owner to the extent the previous owner is able to be identified.

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(D) Any person who fails to notify Animal Control as specified in this section shall be guilty of a Class 3 misdemeanor.

**§343.43 - §343.45      Reserved**

### ***ARTICLE V: DANGEROUS AND VICIOUS DOGS AND OTHER DANGEROUS ANIMALS***

#### **§343.46 DETERMINATION OF DANGEROUS**

(A) The Chief Animal Control Officer or his designee shall determine whether a dog shall be declared dangerous pursuant to NCGS §67-4.1 and/or Chapter 343: Animals (Domestic).

(B) The Chief Animal Control Officer or his designee shall issue a written declaration of dangerousness within ten (10) working days of the incident necessitating a determination of whether the dog is dangerous.

(C) The animal control officer shall impound the animal in question for no more than 10 working days or until the owner can provide an adequate enclosure, whichever happens first.

#### **§343.47 CONFINEMENT AND RESTRAINT**

In addition to the provisions of NCGS §67-4.2, the owner of a dog that has been declared dangerous pursuant to NCGS §67-4.1 and/or Chapter 343: Animals (Domestic), shall comply with the following provisions:

(A) The dog shall be confined according to the specific written instructions, if any, of the Chief Animal Control Officer or his designee to the extent that these do not conflict with the confinement requirements of NCGS §67-4.2.

(B) When a dog that has been declared dangerous is off the property of the owner it must be muzzled and under restraint by a competent person who by means of a leash, chain or rope has the dog firmly under control at all times. Voice command is not recognized as adequate restraint.

(C) The owner shall notify the Animal Control Division immediately if the dog escapes or is otherwise freed from the secure enclosure or other restraint.

#### **§343.48 TRANSFER OF OWNERSHIP**

The owner of a dog that has been declared dangerous shall comply with the requirements of NCGS §67-4.2 concerning transfer of ownership.

#### **§343.49 VICIOUS DOGS**

(A) Any dog determined to be a vicious dog shall immediately be taken to the Catawba County Animal Shelter and held for a ten-calendar day quarantine period and then humanely destroyed unless an appeal is filed within the time limits of this section. If an appropriate appeal is filed, the dog shall be held at the shelter, at the owner's expense, pending the final outcome of the appeal.

(B) The owner shall deposit with the shelter the anticipated fee for the estimated time of the appeal beginning with the first day of quarantine. Such amount shall be calculated based on transportation fees, boarding fees and any known veterinary care the animal is in need of at the time the quarantine period begins. Payment of the fees is a required part of the appeal process. If the owner fails to pay the determined amount of money the appeal application will be deemed incomplete



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and no appeal heard.

(C) Should the owner prevail at the conclusion of the appeal process, all monies paid to the County shall be refunded with the exception of any fees due a veterinarian for care given to the animal for a condition that existed at the time the animal was brought to the shelter. Should the county prevail at the conclusion of the appeal period all costs of transporting, feeding, sheltering shall be deducted from the monies paid by the owner. Any balance shall be remitted to the individual who paid the monies to begin with.

(D) Nothing in this section shall prohibit the owner from voluntarily releasing the dog to be destroyed in a humane way.

### **§343.50 SANCTIONS, FINES, PENALTIES, AND REMEDIES**

In addition to criminal penalties provided by state law and civil penalties set forth in §343.13, any person who violates this article shall be subject to the following sanctions, and remedies:

(A) If a dog, which has been declared dangerous, is found at large it shall be seized and impounded. Animal Control is authorized to go upon private property to seize the dangerous dog. If attempts to seize the dangerous dog are unsuccessful, animal control may tranquilize or humanely destroy the animal, without prior notice to the owner, upon authorization of the Chief Animal Control Officer. The animal control officer shall thereafter make a good faith attempt to notify the owner of the incident.

(B) If the dog has caused injury to a person or another animal while at large and not confined within a secure enclosure, the Chief Animal Control Officer shall, in addition to seizing the dog, issue to the owner a Notice of Intent to Destroy the dog. The owner may appeal this intended action by filing a written request for appeal with the Office of Emergency Services as specified in §343.15.

(C) If an inspection of the premises where a dog, which has been declared dangerous is confined, reveals that the owner has not complied with the requirements for confining a dangerous dog, animal control shall issue a \$100.00 civil penalty in accordance with §343.13 and may impound the dog at the animal shelter.

(D) If the dog is not redeemed within five (5) working days, or if the owner does not request an appeal within the time limit provided, the dog shall become the property of the county and shall be disposed of in accordance with this chapter.

(E) Nothing in this article shall prevent a private citizen from bringing an action against the owner of an animal, which has caused injury to the private citizen or his property, for damages or any other loss resulting from the animal being dangerous.

### **§343.51 EXCEPTIONS**

The provisions of this article do not apply to:

(A) A law enforcement dog or guard dog being used by a law enforcement officer or bonafide professional security guard to carry out the law enforcement officers' or security guards' official duties or professional responsibilities.

(B) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of, its owner, keeper or harbinger, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or

(C) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was tormenting, abusing, or assaulting the dog, had tormented, abused or assaulted the dog, was committing or attempting to commit a crime.

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('77 Code, § 4-) (Res. passed 3-5-73; Am. Ord. passed 3-6-78, 11-21-78, 9-2-80, 6-22-82, 11-1-82, 3-7-83, 6-19-84, 3-21-88, 6-20-88, 6-24-91, 4-6-92, 8-2-93, 8-2-99)

### **ANIMALS (DOMESTIC) [See also ANIMALS (DANGEROUS AND/OR EXOTIC; AN ORDINANCE REGULATING THE USE OF COUNTY PARKS AND RECREATIONAL AREAS, § 310.04 (G) Pets]**

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